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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,669	09/30/2003	Mario Elmen Tremblay	8598MR	5011

27752 7590 05/10/2011
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

EXAMINER

ZHENG, LOIS L

ART UNIT	PAPER NUMBER
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1733

MAIL DATE	DELIVERY MODE
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05/10/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/674,669	Applicant(s) TREMBLAY ET AL.	
	Examiner LOIS ZHENG	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Claim 17 is amended in view of applicant's amendment filed 28 February 2011. Claims 1-16 and 18-19 are canceled. New claim 20 is added. Therefore, claims 17 and 20 are currently under examination.

Claim Interpretation

2. Since applicant's invention includes a non-membrane electrolysis cell that further comprises a non-conducting porous flow barrier, the examiner interprets the language "non-membrane electrolysis cell" to mean an electrolysis cell that does not include an ion-selective membrane. The "non membrane electrolysis cell" as recited in claims 16-17 does not exclude other porous membranes/separator/barrier/diaphragm/spacer that is not ion-selective or ion-conducting.
3. The term "non-conducting porous flow barrier" as recited in claim 17 is interpreted to mean a porous barrier/separator/spacer/membrane/diaphragm that is not electrically conducting and/or ionically selective/conducting and is capable of restricting flow of electrolyte in an electrolysis cell.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckley et al. US 6,632,347 B1 (Buckley) in view of Kaczur et al. US 5,106,465 (Kaczur), and further in view of Capuano et al. US 4,542,008 (Capurano).

The rejection of claim 17 is rejected for the same reasons set forth in paragraph 6 of the Non-Final Office Action mailed 3 December 2010.

In addition, the amended feature regarding the slow dissolving tablet of halogen dioxide salt "comprising a mixture of said halogen dioxide salt and a dissolution control agent" as recited in claim 17 and the actual types of dissolution control agent as recited in claim 20 are directed to materials that are worked upon by the claimed electrolysis cell to form the intended halogen dioxide product. It is well settled that material worked upon by a structure being claimed does not impart patentability to the claims. See MPEP 2115.

6. Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelley US 6,306,281 B1 (Kelley) in view of Capuano, and further in view of Buckley, and further in view of Kaczur.

The rejection of claim 17 is rejected for the same reasons set forth in paragraph 7 of the Non-Final Office Action mailed 3 December 2010.

In addition, the amended feature regarding the slow dissolving tablet of halogen dioxide salt "comprising a mixture of said halogen dioxide salt and a dissolution control agent" as recited in claim 17 and the actual types of dissolution control agent as recited in claim 20 are directed to materials that are worked upon by the claimed electrolysis cell to form the intended halogen dioxide product. It is well settled that material worked

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upon by a structure being claimed does not impart patentability to the claims. See MPEP 2115.

Response to Arguments

7. Applicant's arguments filed 28 February 2011 have been fully considered but they are not persuasive.

In the remarks, applicant argues that Kaczur and Buckley are not combinable because Kaczur produces chlorine free chlorine dioxide and Buckley produces a solution with a predetermined level of free chlorine.

Applicant's argument is directed to how the operation of the apparatuses of Kaczur and Buckley, not directed to the compatibility of the structures of Kaczur's and Buckley's apparatuses. Both Buckley and Kaczur discloses electrolytic cells and Kaczur further teaches utilizing a porous platinum coated titanium anode due to its high surface contact area and high corrosion resistance(col. 4 lines 41-63) which are beneficial to an electrolytic process. Therefore, the examiner maintains that one of ordinary skill in the art would have found it obvious to incorporate the porous platinum coated titanium anode of Kaczur into the electrolytic cell of Buckley in order to maximize the surface area and achieve high corrosion resistance as taught by Kaczur.

Applicant further argues that Buckley and Kaczur do not teach claimed " slow dissolving tablet of halogen dioxide salt comprising a mixture of said halogen dioxide salt and a dissolution control agent".

The examiner does not find applicant's argument convincing for the same reason set forth in paragraphs 5-6 above.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LOIS ZHENG whose telephone number is (571)272-1248. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Roy King/
Supervisory Patent Examiner, Art
Unit 1733

LLZ